

act violated the Illinois Consumer Fraud and Deceptive Business Practices Act (“ICFA”)(Count IV).

2. Defendant Kroll contends that not a single portion of Plaintiff’s Complaint provides it sufficient notice pursuant to Federal Rule of Civil Procedure 8(a). Plaintiff’s complaint as to each count, however, is more than adequate and does comply with FRCP 8(a) pleading standards. As noted in Plaintiff’s accompanying Memorandum of Law, Defendant Kroll attempts through its motion to: (A) gloss over the FCRA’s explicit statutory liability for Kroll’s impermissible release and obtaining of Plaintiff’s personal credit information under 15 U.S.C. § 1681b, (B) misapplies the very narrow instance in which the FCRA preempts state law claims, (C) incorrectly contends Plaintiff’s allegations of Kroll’s unfair business conduct under the ICFA must be pled with particularity under FRCP 9(b), and (D) flatly ignores facts clearly set forth in Plaintiff’s Complaint alleging the “when” and “how” which are sufficient for ICFA claims of deception pursuant to FRCP 9(b).

WHEREFORE, for the reasons stated above and set out more fully in Plaintiff Hayes’ *Memorandum of Law in Opposition to Defendant Kroll’s Motion to Dismiss*, Plaintiff Hayes respectfully requests that this Court enter an order denying the entirety of Defendant Kroll’s motion.

DATED this 17th day of April 2008.

Respectfully submitted,

MENGEDOTH LAW FIRM LLC

/s Paul B. Mengedoth
Paul B. Mengedoth (AZ Bar No. 18507) (*pro*
hac vice)
2425 E. Camelback Rd., Ste 600
Phoenix, Arizona 85016

CERTIFICATE OF SERVICE

I hereby certify that on April 17, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to each of the following:

Steven P. Gomberg (#1004204)
Michael S. Mayer (#6290161)
Freeborn & Peters LLP
311 S. Wacker Drive, Suite 3000
Chicago, IL 60606-6677
Attorneys for Defendant Kroll Factual Data
Corporation

Kevin W. Doherty (ARDC No.: 3128844)
Todd E. Macey (ARDC No.: 6286767)
DOHERTY & PROGAR LLC
200 West Adams Street, Suite 2220
Chicago, IL 60606
Attorneys for Defendant First Chicago
Mortgage Co.

Keith J. Keogh
Alexander H. Burke
LAW OFFICES OF KEITH J. KEOGH, LTD.
227 W. Monroe St., Ste. 2000
Chicago, IL 60606
Co-counsel for Plaintiff Hayes

/s Paul B. Mengedoth